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*Counsel for Marc S. Kirschner, as Litigation
Trustee of the Highland Litigation Sub-Trust*

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

| | | |
|----------------------------------|---|--------------------------|
| In re: |) | Chapter 11 |
| |) | |
| HIGHLAND CAPITAL MANAGEMENT, |) | Case No. 19-34054-sgj11 |
| L.P., ¹ |) | |
| Debtor. |) | |
| |) | |
| |) | |
| CLO HOLDCO, LTD., |) | Case No. 3:22-cv-02051-B |
| |) | |
| Appellant, |) | |
| |) | |
| v. |) | |
| |) | |
| MARC S. KIRSCHNER, AS LITIGATION |) | |
| TRUSTEE OF THE LITIGATION SUB- |) | |
| TRUST, |) | |
| |) | |
| Appellee. |) | |

**APPELLEE'S SUPPLEMENTAL DESIGNATION OF RECORD ON APPEAL
PURSUANT TO FED. R. BANKR. P. 8009(a)(2)**

¹ The last four digits of the Reorganized Debtor's taxpayer identification number are (8357). The Reorganized Debtor is a Delaware limited partnership. The Reorganized Debtor's headquarters and service address are 100 Crescent Court, Suite 1850, Dallas, TX 75201.

Pursuant to Rule 8009(a)(2) of the Federal Rules of Bankruptcy Procedure, Marc Kirschner, as Litigation Trustee for the Litigation Sub-Trust (“Appellee”), created by Highland Capital Management, L.P.’s *Fifth Amended Plan of Reorganization*, by and through his undersigned counsel, hereby submits his supplemental designation of items to be included in the record on appeal filed by CLO Holdco, Ltd. (“Appellant”) from the *Order Denying Motion to Ratify Second Amended Proof of Claim and Expunging Claim* [Dkt. No. 3457] (the “Order”), entered by the above named Bankruptcy Court in the above captioned Bankruptcy Case on August 17, 2022. Per the Bankruptcy Court’s request, Appellee re-files these designations, originally filed on September 28, 2022 at Docket No. 3546.¹

Appellee respectfully reserves the right to supplement and/or amend the record on appeal designated herein.

I. Supplemental Items from the Docket in the Bankruptcy Case

Appellee designates the following additional items from the docket in the Bankruptcy Case, in addition to the items previously designated by the Appellant:

| <u>Date</u> | <u>Docket No.</u> | <u>Description</u> |
|-------------|-------------------|---|
| 12/04/2019 | 11 | Affidavit/ Declaration by Frank Waterhouse in Support of First Day Motion filed by Highland Capital Management, L.P. |
| 03/02/2020 | 488 | Order Granting Motion Establishing Bar Dates for Filing Claims |
| 09/23/2020 | 1090 | Declaration of John Morris (and all exhibits and attachments thereto) in support of Dkt. No. 1089, Motion to Compromise with the Redeemer Committee |
| 09/29/2020 | 1113 | Certificate of Service of Dkt. No. 1089, Motion to Compromise with the Redeemer Committee |
| 11/06/2020 | 1339 | Notice of appeal by UBS AG London Branch from Dkt. No. 1273, the Motion to Compromise Controversy with the Redeemer Committee |

¹ Appellee makes no substantive revisions to his September 28, 2022 designations.

| | | |
|------------|--------|---|
| 11/24/2020 | 1472 | Debtor's Amended Chapter 11 Plan |
| 11/24/2020 | 1473 | Debtor's Amended Disclosure Statement to Amended Chapter 11 Plan |
| 12/23/2020 | 1625 | Debtor's Motion to Compromise Controversy with HarbourVest |
| 01/08/2021 | 1707 | Objection by CLO Holdco to Dkt. No. 1625, the Motion to Compromise Controversy with HarbourVest |
| 02/22/2021 | 1943 | Order confirming Debtor's Fifth Amended Chapter 11 Plan, Dkt. No. 1472, as modified |
| 05/14/2021 | 2309 | Order to Show Cause |
| 11/09/2021 | 3000 | Objection to Claim of Creditor Jean-Paul Sevilla |
| 12/09/2021 | 3091 | Stipulation between Litigation Trustee and Creditors Scott Ellington, Jean-Paul Sevilla, Isaac Leventon, and Frank Waterhouse, re: Dkt. Nos. 3000 and 3001 |
| 12/15/2021 | 3121 | Notice of hearing re: Dkt. No. 3001 |
| 01/07/2022 | 3164 | Order Approving Dkt. No. 3091, Stipulation between Litigation Trustee and Sevilla, Ellington, Leventon, and Waterhouse |
| 01/11/2022 | 3178 | CLO Holdco's Motion to Ratify Second Amended Proof of Claim No. 198 |
| 02/01/2022 | 3220-1 | Exhibit 1, Declaration by Deborah Newman (and all attachments or exhibits thereto), in support of Dkt. No. 3220, the Trustee's Opposition to Dkt. No. 3178, CLO Holdco's Motion to Ratify |
| 1/17/2021 | 1765 | Transcript regarding hearing held on 1/14/2021 re: Dkt. No. 1707 |
| 08/28/2021 | 2794 | Transcript regarding Hearing Held 08/19/2021 RE: Motion to Extend the Stay in Trustee's Adversary Proceeding |

II. Supplemental Items Not on Bankruptcy Case Docket

Appellee designates the following items not found on the docket but pertinent to this appeal:

| <u>Date</u> | <u>Description</u> |
|-------------|--|
| 10/16/2019 | Hearing Transcript, <i>Redeemer Comm. Of the Highland Crusader Fund v. Highland Capital Mgmt., L.P.</i> , C.A. No. 12533-VCZ (Del. Ch. Oct. 16, 2019) (attached hereto as Exhibit 1) |
| 06/14/2021 | Electronic Order, <i>UBS Securities LLC et al. v. Highland Capital Management LP</i> , Case No. 3:20-cv-03408-G (N.D. Tex. 2020) (attached hereto as Exhibit 2) |

| | |
|------------|---|
| 08/02/2022 | Email dated Aug. 2, 2022 to Traci Ellison (attached hereto as <u>Exhibit 3</u>) |
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Appellee reserves the right to designate additional items depending on the arguments made by Appellant on appeal.

Dated: October 17, 2022

Respectfully submitted,

SIDLEY AUSTIN LLP

/s/ Paige Holden Montgomery

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*Counsel for Marc S. Kirschner, as Litigation
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CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that a true and correct copy of the above and foregoing document and all attachments thereto were sent via electronic mail via the Court's ECF system to all parties authorized to receive electronic notice in this case on this 17th day of October, 2022.

/s/ Paige Holden Montgomery
Paige Holden Montgomery